



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,968	12/30/2004	Henrik Siegle	10191/3818	7322
26646 7590 07/15/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
LEDYNH, BOT L				
ART UNIT		PAPER NUMBER		
2862				
MAIL DATE		DELIVERY MODE		
07/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/519,968

Applicant(s)

SIEGLE ET AL.

Examiner

Bot LeDynch

Art Unit

2862

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
b) ☐ They raise the issue of new matter (see NOTE below);
c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 13, 18, 21 and 22.
Claim(s) rejected: 10, 11, 14-17, 19 and 20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/s/Bot LeDynch/
Bot LeDynch
Primary Examiner
Art Unit: 2862

Continuation of 11, does NOT place the application in condition for allowance because: With respect to the rejection of claims 10-11, 14-17, and 19-20 under 35 USC 102(b) as clearly anticipated by Kawano et al, Applicant argues that (1) prior art reference Kawano et al's "magnetic layers 1a, 2a, and 3a are part of the MR element"; therefore, "cannot constitute either of the at least one soft magnetic layer or the at least one hard magnetic layer as recited in the present claims"; (2) although buffer layer 6 ... may be considered to be ... below the MR element," there is no indication ...that [buffer layer 6] contains at least one hard magnetic layer and at least one soft magnetic layer"; and (3) there is no indication "the at least one soft magnetic layer being adjacent to the at least one hard magnetic layer.

The Examiner disagrees.

As to (1) and (2), independent claims 10 and 19 recite "a magnetoresistive layer stack that works substantially on the basis of one of a GMR effect and an AMR effect."Kawano et al discloses a magnetoresistive layer stack (7, 3a, 5, 2a) (see col. 6, lines 54-60; Fig. 15). Although Kawano et al uses the term "MR element" to include further elements, Kawano et al discloses the layers 3a, 5 and 2a forming "a GMR effects." (See col. 6, lines 54-60; Fig. 15). Thus, those layers would read on the limitation "a magnetoresistive layer stack that works substantially on the basis of one of a GMR effect and an AMR effect." As a result, both soft layer 1a (col.11, lines 54-56) and hard layer 6 (col.15, lines 64-68) form a layer array situated "below a magnetoresistive region of the magnetoresistive layer stack." This layer array generates a magnetic field which acts upon the magnetoresistive layer stack (col. 7, lines 50-60, wherein layer 6 is exchange-coupled with layer 2: besides, magnetic layers 1a and 6 would generate magnetic field which acts upon the stack layer because the magnetic layer array is situated next to the magnetoresistive layer stack.

As to (3), layer array (1a and 6) includes "at least one soft magnetic layer being adjacent to the at least one hard magnetic layer." (See Fig. 15).

For dependent claims, see the above paragraphs.

As to arguments concerning the other two references, the Examiner agrees with the Applicant; consequently, the rejection of claims 10-11 and 13-22 under 35 USC 102(b) as being clearly anticipated by Sakakima et al, and the rejection of claims 10-11, 13-14, 17, 19-22 under 35 USC 102(b) as being clearly anticipated by Van den Berg have been withdrawn.